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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/731,418

12/09/2003

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OIC0117US

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EXAMINER

LOFTIS, JOHNNA RONEE

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

10/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/731,418 | <b>Applicant(s)</b><br>LLOYD ET AL. |  |
|                              | <b>Examiner</b><br>JOHNNA R. LOFTIS  | <b>Art Unit</b><br>3623             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following is a non-final office action upon examination of application number 10/731418. Claims 1-27 are pending and have been examined on the merits discussed below.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Applicant has requested removal of Amerasinghe as a reference under 35 USC 103(c). In light of this argument, newly assigned Examiner has revisited the reference. Examiner asserts that Amerasinghe teaches notifying the participants of the creation of a forecast snapshot and has therefore rejected the claims under 102(e). At paragraphs 0048-0050 of Amerasinghe, the forecast series defines who may participate. The participants are inherently notified because they are given the chance to run a preliminary forecast and they can make modifications or adjustments prior to submitting the information to his or her manager. New rejections are found below.

3. In light of recent Supreme Court precedent and recent Federal Circuit decisions, claims 1-12 warrant new rejections under 35 USC 101. These rejections are presented below.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-12 are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be performed without the use of a particular apparatus. Thus, claims 1-12 are non-statutory since they may be performed within the human mind.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-27 rejected under 35 U.S.C. 102(e) as being anticipated by Amerasinghe et al. (U.S. 2007/0208608).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As per claim 1, Amerasinghe et al. discloses a method in a computer system for defining a forecast snapshot, the method comprising: receiving from a user an interval for creating forecast snapshots (paragraphs 6 and 57; Table 1; Figure 3); receiving from the user a day within the interval for creating forecast snapshots (paragraph 57; Table 1); receiving from the user roles of participants to be included in the forecast snapshots (paragraphs 48 and 50; Figures 6a-6b); notifying the participants of the creation of a forecast snapshot so the participants can update their forecast information (paragraphs 0048-0050 – the forecast series defines who may participate; the participants are

Art Unit: 3623

inherently notified because they are given the chance to run a preliminary forecast and they can make modifications or adjustments prior to submitting the information to his or her manager); and generating a forecast snapshot based on the opportunity information of the participants in accordance with the day within the interval (paragraph 50).

As per claim 2, Amerasinghe et al. discloses the method of claim 1 wherein the interval is weekly (paragraph 48).

As per claim 3, Amerasinghe et al. discloses the method of claim 2 wherein the day is a day of the week (paragraph 50; A user may specify a date to forecast upon.).

As per claim 4, Amerasinghe et al. discloses the method of claim 1 wherein the interval is monthly (paragraph 57).

As per claim 5, Amerasinghe et al. discloses the method of claim 4 wherein the interval is a day of the month (paragraph 50; A user may specify a date to forecast upon.).

As per claim 6, Amerasinghe et al. discloses the method of claim 1 including before generating a forecast snapshot, ensuring correctness of a hierarchy of the participants (paragraph 47; item 11 in Figures 2-3; Members of a hierarchy are defined.).

As per claim 7, Amerasinghe et al. does not expressly disclose the method of claim 6 including when the hierarchy of participants is not correct, notifying a user so the hierarchy can be corrected. However, Examiner takes Official Notice that when data is not correct for generating a report such as a forecast, it was old and well known at the time of the invention to notify a person to correct the data. Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Amerasinghe et al. to notify a person when the hierarchy of participants is not correct so

Art Unit: 3623

that the hierarchy can be corrected because such notification ensures data accuracy and integrity.

As per claim 8, Amerasinghe et al. discloses the method of claim 1 wherein the generating includes for each participant, retrieving opportunity information for that participant (paragraphs 48-50); and

generating forecast summaries in accordance with a hierarchy of the participants (paragraph 51).

As per claim 9, Amerasinghe et al. discloses the method of claim 1 wherein each forecast snapshot is associated with a forecast period (paragraph 57).

As per claim 10, Amerasinghe et al. discloses the method of claim 9 wherein the forecast period is a quarter (paragraph 57).

As per claim 11, Amerasinghe et al. discloses the method of claim 9 including receiving from the user an indication of the forecast period (paragraph 57).

As per claim 12, Amerasinghe et al. discloses the method of claim 1 wherein the forecast snapshot is automatically generated based on the day and interval (paragraphs 48, 58-59 and 94).

Claims 13-27 recite subject matter similar to that already rejected above. Therefore, claims 13-27 are rejected on the same basis as claims 1-12 above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

Art Unit: 3623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/jl/  
9/18/08

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623